

**FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE**

DISTRICT : PUNE

WRIT PETITION NO.2941 OF 2004

Office notes, Office '
Memoranda of Coram, '
appearances, Court's '
orders or directions '
& Registrar's orders '

Court's or Judge's orders

Mr N.R. Bubna for Petitioners.
Mr M.V. Limaye for Respondent No.1.
Mr S.M. Gorwadkar for Respondent Nos.2
and 3.

CORAM : D.K. DESHMUKH J.

DATE : 19TH OCTOBER 2005

P.C. :-

1. The Trial Court has rejected an application for amendment in the written statement. By the said application for amendment in the written statement, a counter claim was being made. The Trial Court found that the counter claim was for declaration of document executed in 1993 as having been obtained by fraud. The application for amendment was made in the year 2003. The Court, on finding that the counter claim was obviously barred by the law of limitation, rejected the same. The learned counsel appearing for petitioners submits that even though the Court on the face of it finds that the claim made is barred by the law of limitation, still the Court could have

granted the amendment. In my opinion, that is not the law. When the Court finds that the claim made by the amendment application is barred by the law of limitation, the Court will be under a duty to reject such an amendment to see that the party who is making such claim does not repeat such mischief again. The claim of the petitioners was obviously barred by the law of limitation and therefore, the Court was perfectly justified in rejecting the application. Petition has no substance. It is rejected.

. Parties to act on the copy of this order duly authenticated by the Sheristedar / Personal Secretary as true copy.

. Certified copy expedited.
